

THE INDIANA APPELLATE PROCESS:

Courts of Last Resort



Courts in the Classroom:
A project of the Indiana
Supreme Court



The Indiana Appellate Process



March 1, 2005

Dear Students,

I am very pleased to introduce this curriculum booklet on Indiana's appellate court system. As one of 21 jurists who serve on our state's three appellate courts, I am excited to know you will be learning more about this vital part of our judiciary.

Appellate courts play an important role in the system of justice. They allow litigants a chance to correct any mistakes that were made during a trial. In specific situations, they act as a crucial safety net to help make sure everyone is treated fairly when he or she first brings a case to the trial court.

Appellate courts also shape the law to adjust to current needs of society. Most laws are passed by the Indiana General Assembly. Usually this works just fine because the intent of the law is quite clear. But sometimes the law is ambiguous or it conflicts with other laws. Sometimes the law simply no longer fits because of changes in the way we live our lives or because of new technology. People sometimes present such problems to appellate courts. To solve the problem at hand, judges on these courts rely on the state and federal constitutions, on state or federal laws, or on decisions issued earlier by appellate courts. Through this process, courts create new "law" that is every bit as binding as laws passed by the legislature.

I am proud that as our courts have evolved, they have remained connected to the communities they serve. It is important that you learn about our courts because the future of Indiana courts will be in the hands of students like you. I speak for all members of the Indiana legal community when I invite you to explore the past, present, and future of our Indiana court system. I encourage you to ask questions and invite your local judges to your classrooms so you can learn more about Indiana courts. Most importantly, I urge you to ask yourselves how you as citizens can improve our court system in the future.

Sincerely,

Randall T. Shepard
Randall T. Shepard
Chief Justice of Indiana

Main Cover photo: Indiana Statehouse, Indianapolis

Cover photos (from left to right): Old Vanderburgh County Courthouse (Evansville, Ind.), Indiana Supreme Court courtroom, Indiana Court of Appeals courtroom (courtroom photos courtesy of Department of Natural Resources)

Table of Contents

I. Introduction

II. What Is an Appeal?

ACTIVITY: Could You Be an Appellate Court Judge?

III. What Is the Difference Between a Trial Court and an Appellate Court?

ACTIVITY: Trial Court or Appellate Court?

IV. Precedents and the Doctrine of Stare Decisis

ACTIVITY: Appellate Word Search

V. Indiana's Appellate Courts

A. Indiana Supreme Court

History

Choosing a Supreme Court Justice

Choosing a Chief Justice

What Types of Cases Does the Supreme Court Hear?

When Is the Court in Session?

What Do Indiana Supreme Court Justices Do?

Jobs of the Supreme Court

B. Indiana Court of Appeals

History

What Is the Job of the Indiana Court of Appeals?

How Many Judges Sit on the Indiana Court of Appeals?

C. Indiana Tax Court

History

Today's Indiana Tax Court

Who Sits on the Indiana Tax Court?

Appealing a Case to the Indiana Tax Court

ACTIVITY: Which Court Does What?

VI. How a Case Moves from the Trial Court to the Appellate Court

A. Starting an Appeal

B. Appeals Filed with the Indiana Supreme Court

C. Appeals Filed with the Indiana Court of Appeals

D. Appeals filed with the Indiana Tax Court

ACTIVITY: The Appellate Process Game

VII. Closing Thoughts

Glossary

Bibliography

Appendix for Teachers

A. Biographies of Current Appellate Court Judges

B. Answer Keys

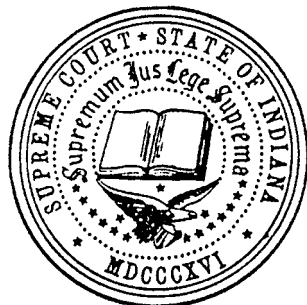
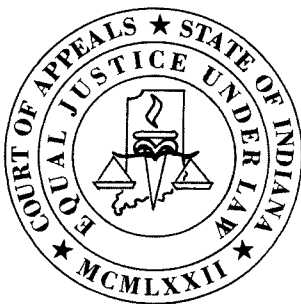
Objective

This curriculum unit will introduce students to Indiana's appellate court system. Students will learn about the Indiana Supreme Court, the Indiana Court of Appeals, and the Indiana Tax Court. Students will also gain an understanding of the appellate process and how cases move from a trial court to the appellate courts

The Indiana Appellate Process: Courts of Last Resort unit was prepared by the Indiana Supreme Court, Office of Chief Justice Randall T. Shepard. Special thanks are extended to Dr. Elizabeth Osborn, special assistant for court history and public education; Kameelah Shaheed, the Supreme Court summer law associate who started this project; David Remondini, Counsel to the Chief Justice; and Angela Robinson, Debbie Baumer, Chasity Thompson, and Julianna Plawecki, from the office of the Chief Justice, who helped prepare the manuscript for publication. Thanks are also due to Doug Cressler, former Supreme Court administrator; Geoff Davis, staff attorney for the Supreme Court; Denise Holmes, Supreme Court administration support staff; Judge Margret Robb of the Indiana Court of Appeals; Judge Thomas Fisher of the Indiana Tax Court and his staff; and Kent Zepick and Russ Hughes, Court of Appeals staff attorneys. Last, but certainly not least, thank you to former Court of Appeals Judge Linda Chezem, whose vision inspired the project.

This project was supported in part by Grant No. 03DB056 awarded by the Indiana Criminal Justice Institute and made possible by Award No. 2003-DB-BX-0026 awarded by the Bureau of Justice Assistance, U.S. Department of Justice.

Acknowledgments



Introduction

Courtrooms and legal questions fascinate many people. Today, people can watch TV programs where fictionalized legal matters unfold like stories, and lives and fortunes are changed immediately by courtroom decisions. Most of the glitz and glamour shown in these programs isn't anything like the work of real courts. For example, these shows rarely talk about appellate courts, which are the courts where people take their cases when they are not satisfied with the decision of the trial court. But some of the longest lasting and farthest reaching decisions, affecting thousands of people, are made by appellate courts.

Have you ever heard of a case called *Brown v. Board of Education*? This was the famous court case that ended segregation in schools and finally allowed children of all races to go to school together. This 1954 case was decided in an appellate court—the United States Supreme Court. There are appellate courts in all 50 states, and they, like those in Indiana, also make far-reaching decisions.

Did you know, for example, that in 1820 the Indiana Supreme Court ruled against slavery and involuntary servitude (making people work for you against their will)? That was 45 years before slavery was made illegal in the United States.

In this unit, you will learn about Indiana's three appellate courts: the Indiana Supreme Court, the Indiana Court of Appeals, and the Indiana Tax Court. You will also learn about how and why cases move from trial courts, which are the lower courts, to the appellate courts, which are the higher courts.

Tips for Teachers

To understand more about the appellate process, it may be helpful for students to review what happens in trial courts. The first publication in this series, *The Indiana Trial Court System: At a Courthouse Near You* is a useful supplement.

You may find this through Purdue University's 4-H publications office. That website is located at www.ces.purdue.edu/government.



Photo courtesy of *The Indianapolis Star*

What is an Appeal?

Questions to Work on Throughout the Unit

- 1) What is an appeal?
- 2) What is the difference between a trial court and an appellate court?
- 3) What is precedent?
- 4) How many appellate courts does Indiana have?
- 5) How does someone become an appellate court judge?
- 6) What kinds of cases does the Indiana Supreme Court hear?
- 7) What kinds of cases does the Indiana Court of Appeals hear?
- 8) What kinds of cases does the Indiana Tax Court hear?
- 9) Can every case be appealed?
- 10) What gives people the 'right' to an appeal?
- 11) How do the courts affect me?

Imagine you and your sister are arguing over the television remote control. You think you should be able to use the remote and your sister thinks it is her turn. Your older brother is watching you while your parents are at work. He hears the argument and decides that your sister should get the remote. Unhappy with this decision, you ask your mom for a second opinion when she gets home. This is an example of an appeal. An initial decision was made, but the person who lost then asked a higher authority to review the decision and possibly change it.

The same thing can happen when a trial court makes a decision about a case. Sometimes, one side, called a **party** in legal terms, thinks the trial court made the wrong decision. When that happens, the party can ask an appellate court to hear the case. This process, called an **appeal**, takes place after a case is decided by a trial court. The party who lost at trial and is bringing the appeal is called the **appellant**. The party who won at trial and is responding to the appeal is called the **appellee**.

An appellate court has the power to **affirm** (agree with) or **reverse** (overrule) the decision of the trial court. It does this by reviewing the written record from the trial court, called the **transcript**, along with the written arguments presented by each side. Occasionally the court asks the parties to appear in person for **oral arguments** as well. During the appellate process, the judges review the case for legal mistakes that are important enough to change the decision entered by the trial court.

Appellate courts base their decisions on a legal review of the written record from the trial and on the legal argument supplied by the appellant and appellee. An appellate court does not hear live witnesses or decide the facts of the case. Appellate courts limit their review to legal issues. For example, an appellate court is unlikely to decide if Susie Witness was lying when she testified in the trial court, but an appellate court will decide if it was legally proper for the trial court judge to allow the jury to hear what Susie Witness had to say during the trial.

As a result of a criminal appeal, the appellate judges can reverse a conviction, reduce a sentence, or order a new trial. In a civil case, the judges can reverse the judgment or reduce a damage (money) award. An appellate court explains the reason for its decision in a written **opinion**. In some cases, if serious errors were made, an appellate court may even order that a new trial be held.

Activity *Could You Be an Appellate Court Judge?*

Alan v. Samantha

Directions:

Divide the class into groups; groups of 4-6 would be ideal. Each student should read about Alan and Samantha's disagreement. In each group, two students should be chosen to play Alan and Samantha. One student will act as the trial court judge, and the remaining student(s) will act as an appellate court judge(s).

Disagreement:

Alan and Samantha were good friends. One day, Samantha asked to borrow Alan's skateboard so she could get home faster. Alan knew that Samantha was a pretty good skateboarder, but he didn't want to loan her his skateboard because one of the wheels was loose and he was afraid she would fall off and get hurt.

Samantha thought Alan didn't want her to borrow his skateboard because he didn't think she was a good skateboarder. Alan, not wanting Samantha to think that was the reason, decided to let her borrow the skateboard for her ride home. On the way home, a wheel came off of the skateboard, and Samantha fell down a hill, breaking her arm and collarbone.

Samantha sued Alan, asking that he pay for her medical bills because she thinks Alan shouldn't have let her borrow his skateboard without warning her that the wheel might come off.

Questions to Consider:

1. What does the trial judge decide?
2. How did the trial court judge reach his/her decision?
3. Does the appellate judge agree?
4. If not, why was the appellate judge's decision different?
5. What did the appellate judge base his/her decision on?

As you continue to learn more about the appellate process in this unit, come back to this activity and see if your answers change.



Indiana students visit the Indiana Supreme Court to participate in a re-enactment of Brown v. Board of Education.